



DEPARTMENT OF COMMERCE

[3510-16]

United States Patent and Trademark Office

37 CFR Part 6

Docket No. PTO-T-2012-0027

RIN 0651- AC80

International Trademark Classification Changes

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (“USPTO”) issues a final rule to incorporate classification changes adopted by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (“Nice Agreement”). These changes became effective January 1, 2012, and are listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (10th ed., 2011), which is published by the World Intellectual Property Organization (“WIPO”). In addition, the USPTO is amending some punctuation and grammar to conform to what appears in the Nice Agreement.

DATES: This rule is effective on [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Cynthia C. Lynch, Office of the Deputy Commissioner for Trademark Examination Policy, by telephone at (571) 272-8742.

SUPPLEMENTARY INFORMATION

The USPTO is revising 37 CFR 6.1 to incorporate classification changes and modifications that became effective January 1, 2012, as listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (10th ed., 2011), published by WIPO. These revisions have been incorporated into the Nice Agreement. As a signatory to the Nice Agreement, the United States adopts these revisions pursuant to Article 1. In addition, the USPTO is revising punctuation and grammar so that it will conform to what appears in the Nice Agreement.

The following changes are noted:

Class 5 is amended to change “dietetic substances adapted for medical use,” to “dietetic food and substances adapted for medical use,” and to add “dietary supplements for humans and animals;” before “plasters.”

Class 7 is amended to insert “automatic vending machines” after the word “eggs.”

Class 9 is amended to insert “compact discs, DVDs and other digital recording media;” after “discs;” and to insert “computer software;” after “computers.” “Automatic vending machines and” is deleted from Class 9; automatic vending machines are classified in Class 7.

Class 18 is amended to replace “umbrellas, parasols and walking sticks” with “umbrellas and parasols; walking sticks.”

Class 24 is amended to replace “bed and table covers” with “bed covers; table covers.”

Classes 30 and 31 are amended to reorder the manner in which the goods are listed in the class.

Class 32 is amended to replace “non-alcoholic drinks; fruit drinks” with “non-alcoholic beverages; fruit beverages.”

Rulemaking Requirements

Administrative Procedure Act: The amendments in this final rule are procedural in nature as they only reorganize the international classifications of goods and services and modify the form of wording. The reorganization and modification have been established by the Committee of Experts of the Nice Union and have been promulgated in the volume entitled International Classification of Goods and Services for the Purposes of the Registration of Marks (10th ed., 2011). Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A), or any other law. Furthermore, pursuant to 5 U.S.C. 553(b)(B), notice and an opportunity for public comment are unnecessary since the amendments are required by the Nice Agreement, to which the United States is a signatory.

Regulatory Flexibility Act: The final rule involves rules of agency practice and procedure. As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

Executive Order 12866: This rule has been determined not to be significant for purposes of Executive Order 12866 (Sept. 3, 1993).

Executive Order 13563: The USPTO has complied with Executive Order 13563. Specifically, the USPTO has, to the extent feasible and applicable: (1) made a reasoned

determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected prior to issuing a notice of proposed rulemaking, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes, to the extent applicable.

Executive Order 13132: This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on

competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Therefore, this notice is not expected to result in a “major rule” as defined in 5 U.S.C. 804(2).

Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

Paperwork Reduction Act: This final rule does not involve information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 37 CFR Part 6

Administrative practice and procedure, Trademarks, Classification.

For the reasons stated in the preamble and under the authority contained in 15 U.S.C. 1112, 1123 and 35 U.S.C. 2, as amended, the USPTO is amending part 6 of title 37 as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

1. The authority citation for 37 CFR Part 6 continues to read as follows:

Authority: 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

2. Revise § 6.1 to read as follows:

§ 6.1 International schedule of classes of goods and services.

GOODS

1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.

5. Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical use, food for babies; dietary supplements for humans and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal;

ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs; automatic vending machines.

8. Hand tools and implements (hand-operated); cutlery; side arms; razors.

9. Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.

11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosives; fireworks.

14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.

15. Musical instruments.

16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks.

17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas and parasols; walking sticks; whips, harness and saddlery.

19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

21. Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

23. Yarns and threads, for textile use.

24. Textiles and textile goods, not included in other classes; bed covers; table covers.

25. Clothing, footwear, headgear.

26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk and milk products; edible oils and fats.

30. Coffee, tea, cocoa and artificial coffee; rice; tapioca and sago; flour and preparations made from cereals; bread, pastry and confectionery; ices; sugar, honey, treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice.

31. Grains and agricultural, horticultural and forestry products not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

32. Beers; mineral and aerated waters and other non-alcoholic beverages; fruit beverages and fruit juices; syrups and other preparations for making beverages.

33. Alcoholic beverages (except beers).

34. Tobacco; smokers' articles; matches.

SERVICES

35. Advertising; business management; business administration; office functions.

36. Insurance; financial affairs; monetary affairs; real estate affairs.

37. Building construction; repair; installation services.

38. Telecommunications.

39. Transport; packaging and storage of goods; travel arrangement.

40. Treatment of materials.

41. Education; providing of training; entertainment; sporting and cultural activities.

42. Scientific and technological services and research and design relating thereto;
industrial analysis and research services; design and development of computer hardware and
software.

43. Services for providing food and drink; temporary accommodation.

44. Medical services; veterinary services; hygienic and beauty care for human beings or
animals; agriculture, horticulture and forestry services.

45. Legal services; security services for the protection of property and individuals;
personal and social services rendered by others to meet the needs of individuals.

Date: _August 3, 2012

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

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